

WILLIAM O. DOUGLAS TALK
FREEDOM & THE INTELLIGENCE FUNCTION
7 December 1978

Thank you. Thank you Mr. Jenner for your kind words. Freedom and the intelligence function is a very appropriate topic for our gathering this afternoon and for this country to discuss at this time. Never before, perhaps in the history of our country, has intelligence, good intelligence been so vital to our freedom.

Look, for instance, at our economic freedom, our right to earn a living as we choose. Look back 32 years when the Central Intelligence Agency was first organized. At that time our economic freedom as a nation was unlimited. Perhaps the only limitation was how much of our largess we were going to give away and share with less privileged nations of the world.

Look at how different it is today. In the first six months of this year we had a balance of payment deficit of \$10 billion. We imported 46% of our oil, 22% of our energy. Under these circumstances we simply must go out and compete in the world market. We must sell our goods in order to pay for these others. And if we are going to do that, we must understand what is going on in the rest of the world. We must know where the markets are. We must understand whether there's going to be political stability long enough in this country or that to make investments. We must be able to tell whether competitors are practicing unfair trade practices.

And if we're going to be interdependent, as we surely are economically, we must understand the basic political, economic motivations and intentions of countries all around the world. This requires good intelligence. Well you may ask why you have to gather this kind of information in that mysterious process called intelligence. Well, if this were an open world filled with uncontrolled societies like ours, we would not have to do that. But look back just half a dozen years to what we call the great wheat steal of 1972. And here the mere lack of basic, fundamental, what we would certainly consider unclassified economic data, cost you and me. We didn't have the information about the Soviet's wheat situation.

Look at our political freedom and how much more dependent they are today. Our right to vote. Mr. Jenner had suggested for our representative our right to defend our position in the international political arena without being pressured or trammled by others. It's much more dependent upon good intelligence today. Thirty some years ago most of the free, democratic nations of the world took their international political cues from us. But today, look at the United Nations for instance--the newest, the smallest, the least powerful nation in the world is independent, activist and the last thing it probably wants to do is ever be seen voting with one of the superpowers. In fact, they now form blocs, the G-77 and so on, to ensure they can maintain this sense of political independence. If we are going to protect our nation's interest and those of the free world in this kind of a political environment, we surely must know and understand the culture, the attitudes, the intentions, and the plans of countries all around the globe. And this too, requires good intelligence.

And look at our freedom from physical oppression or even from threats of violence by military force and how much more dependent it is today on good intelligence. Thirty years ago we were the dominant military force of the world and the only thing we needed to maintain that position was to be able to spend the money that was required to maintain our military establishment. How that has changed. We are at near military parity with the Soviet Union and there has been wide proliferation of sophisticated weapons in many, many other countries with whom we might become involved indirectly or directly. Under these circumstance it takes more than just money to do the job we need to do. Why? Because under these circumstances where you don't have a large margin of military superiority with respect to the Soviets; where brute force, military bulk will not do the job with respect to smaller military problems as we so well learned in Vietnam. You need to be smart. You need to understand the characteristics of enemy weapons. You need to understand their military tactics. You need to have insight into their intentions. And this surely is the field of intelligence. So our intelligence, in my view, is greater of importance today for our freedom than ever before.

But if we are to have equal or better intelligence today, we must, perhaps unfortunately, have something else. That something else is a sufficient level of secrecy to do our work adequately. Again, if this were the best of all possible worlds and other societies were as open and uncontrolled as ours, there would not be this need for spying. But that is, of course, not the case today as I pointed out just with simple

economic and physical data. And therefore, we must have some secrecy to protect the way in which we get the necessary information to protect our freedom.

Secrecy though, in itself, possesses the seeds of danger for the very freedom we seek to defend. Secrecy begets unidentified power. Power in any form is subject to abuse; unidentified power has particular potential for abuse. The problem before us then, as a nation, is how, ~~How~~ can we have a satisfactory, competent intelligence function and also have an insurance against abuse? Perhaps the only point I agree with, with Professor Emerson, is that the way to do that is to have accountability and I certainly endorse that 100 percent. Today we have forged links of accountability between the Intelligence Community and you, the public; between the Intelligence Community and the Executive Branch; and between the Intelligence Community and the Legislative Branch of our government. The problem, the task that we have before us is to ensure that these constraints of accountability, which are necessary and desirable, ~~do~~ not, at the same time, so shackle our intelligence capabilities that we cannot provide the information ~~that~~ ⁱⁿ the economic, political, ~~and~~ military spheres which is vital to our freedom. Let me look very quickly with you at what those standards of accountability are in each of these three areas and whether the way we are performing them today will still allow us to handle the task of intelligence.

The first, with respect to the American public. In days gone by, accountability, oversight by the American public was out of the question because not enough information was available. We've had all kinds of

public revelations, investigations, and we have a Freedom of Information Act today, and there is a much larger corpus of information from which the public can judge what and how we are performing. On top of that, in the past several years we have had a positive policy of greater openness. We are responding to the media more, we are participating in public events like this today, we are publishing more. We are taking the product and, where possible, declassifying it and making it available to the American public.

And on top of this, we always have, for the benefit of the public as one of its greatest assets in holding intelligence accountable, the free press, the free media of our country. And here, of course, ^{as} Mr. Jenner has already detailed to you, there have been notable successes, such as Woodward and Bernstein, in holding the governmental apparatus accountable. Here there are, however, problems and contradictions particularly with respect to intelligence. What is known to the press is known to the potential enemy. Unlike a court the press can find you or me guilty through accusation alone. The power to accuse in the public press is a profound power and one just as subject to abuse as any other power. It is a particular problem with respect to intelligence because, at least we hope, the press is never going to know all of our secrets and, therefore, when writing criticisms of our intelligence function must do so on the basis of incomplete information. This is a severe problem and challenge for them. It is for us too.

Let me add though, that we and the press have something else very much in common. Both of us need to protect our sources of information.

No newsmen, no intelligence officer can survive over the long run if his sources are constantly compromised. Now fortunately, from my point of view, the media frequently do not recognize this commonality of approach. A few months ago in one of our Washington newspapers, on the front page in this column, was a story roundly criticizing the Intelligence Community, the Central Intelligence Agency, for failing to release information necessary to prosecute two former ITT officials for alleged perjury before Congress. In this column was a story about the trial in New Jersey where a New York Times reporter was failing to ^{produce}~~advise~~ his notes, which a defendant in a murder trial said were necessary for his exoneration. The reporter never did produce his notes and yet, this brings out to me the fact that there is not, in this country today, adequate public recognition of the fact that there is a necessary regime of secrecy, a legitimacy for a given level of secrecy if we are going to perform our governmental function.

Let me move on to the second process of accountability, ^{the}~~the~~ Executive Branch. There are numerous mechanisms here for checking on and holding intelligence accountable. Let me focus quickly on only those centered around the Presidency. Today a President is much less capable of having what used to be known as probable deniability. Today, for instance, the President must sign, Dr. Emerson, on any covert action that is to be conducted. Today our President is kept posted on our sensitive intelligence undertakings. Today our President supports a policy of maximum disclosure to our oversight committees in the Congress. And today our President has an Intelligence Oversight Board--three gentlemen from

outside the government; former Senator Gore, former Governor Scranton, Mr. Tom Farmer of this city. And these gentlemen are empowered by the President only to investigate the legitimacy, propriety, the legality of our intelligence activities. You, any member of the Intelligence Community may communicate with these people. They will investigate the accusations and report their findings only to the President.

On top of this we have the third form of accountability in the Legislative body. And this is very important because it means that both the Legislative and Executive Branches of our government are separately, independently obtaining the same information on which to weigh judgment on us. For two and a half years we've had a committee dedicated solely to this purpose in the Senate and the same in the House of Representatives for a year and a half. Our relationship with them is one of cooperation. I find them very helpful to me. But let me assure you at the same time it is a relationship of oversight and checking on us. And they are very rigorous in doing that and I report to them regularly and in great detail. This is a stark contrast with the past when intelligence oversight from the Congress was vested in two or three members of one or two committees.

Let me sum up by saying that today we must have good intelligence but we must, at the same time, ensure against the abuse of the necessary secrecy that goes with it. The best way to do that is to have accountability. But accountability with sufficient latitude that we can still perform the basic functions necessary to protecting our freedom. If by accountability you mean a straitjacket into which every minute operation

we conduct is to be tied, you will bring the intelligence activities of our country to a halt.

Let me give you one example of how you can overcontrol⁻⁻⁻ and we did this to ourselves. We created a rule of the Central Intelligence Agency which said that we would not have any paid contractual relationship with any accredited member of the U.S. media. I was only in office a few months when I received a letter from the American Translators Association--why had we fired all those part-time stringers who were doing unclassified translations for the Central Intelligence Agency, it made no sense whatsoever. Because it was a rule and not a law, I was able to change that, to correct it and to undo an injustice.

And at that same time, let me say to you that I put a new proviso in that rule. In the bottom line it said, "... exceptions may be made to this rule upon the express approval of the Director of Central Intelligence ..."--myself. Now there are some who say that's a rule without any teeth, it can be violated over and over again. Yes it can, but you can deduce from what I've said to you today that I could not get away with that. I am held accountable by an Intelligence Oversight Board, by a President, by two committees of the Congress, let alone by the media. And so that, to me, is the essence of how we must conduct the accountability function.

We must have rules, but the rule must have adequate flexibility where necessary and then that flexibility must be backed up by the accountability to these various oversight processes. We need this

balance between enough check, enough oversight to ensure against abuse, but not so much it could tie our hands into inutility. Have we achieved that balance? I don't know. It's too early to tell. It will be several more years and until we enact the charters Dr. Emerson referred to and which I strongly support, we will not know if we have found that right balance line.

I believe we are moving in the right direction. I believe we are conducting a revolution in intelligence. Never before, never before has a major intelligence organization been subjected to the degree of accountability that we have today. I think it's good. I think it is building a model of intelligence uniquely suited to the values, the standards of the United States. But, at the same time, the time to ensure that we can do what you have asked us to do and what it is necessary that we do on behalf of you in defense of the freedom of our country. Thank you.

